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22 HealthCare Conglomerate Associates, LLC

23 SUPERIOR COURT OF THE STATE OF CALIFORNIA

24 IN AND FOR THE COUNTY OF TULARE, VISALIA DIVISION

25 In re SEARCH WARRANT No. 013487  
26 EXECUTED AUGUST 22, 2017 AT  
27 CHASE BANK

28 YORAI BENZEEVI,

Moving Party,

v.

SUPERIOR COURT OF THE COUNTY  
OF TULARE

Respondent,

TULARE COUNTY DISTRICT  
ATTORNEY'S OFFICE,

Real Party in Interest.

RECEIVED  
TULARE COUNTY SUPERIOR COURT  
ADMINISTRATION

OCT 03 2018

STEPHANIE CAMERON, CLERK

BY: LA

Case No.

**REPLY IN SUPPORT OF MOTION TO  
SEAL AND FOR A PROTECTIVE ORDER  
PORTIONS OF DR. YORAI BENZEEVI'S  
MEMORANDUM IN SUPPORT OF HIS  
MOTION FOR RETURN OF SEIZED  
PROPERTY AND RELATED  
EVIDENTIARY HEARING**

Date: October 5, 2018  
Time: 2:00 p.m.  
Dept.: 13  
Judge: Hon. John P. Bianco

1     **I.     INTRODUCTION**

2             The District Attorney’s opposition to Dr. Yorai Benzeevi’s Motion to Seal and for a  
3     Protective Order (“the Motion”) ignores the fundamental presumption that Dr. Benzeevi is  
4     innocent until proven guilty and seeks to inflame the media and other Tulare residents by publicly  
5     airing his private financial information. Because the public has little, if any, interest in Dr.  
6     Benzeevi’s private account information or related financial analysis, this Court should grant Dr.  
7     Benzeevi’s Motion, which seeks to seal narrowly tailored private financial information.

8             Notably, the State opposed only a narrow portion of the Motion. The State does not  
9     object to sealing HealthCare Conglomerate Associate’s (“HCCA”) financial information. Nor  
10    does the State object to the entry of a protective order prohibiting the parties from sharing the  
11    sealed information outside of their respective offices.

12            As for the portion of the Motion that the State opposed, the public has little to no interest  
13    in the account statements, account balances, transaction history, and related financial analysis of a  
14    California citizen who has been neither charged with nor convicted of a crime. The right to  
15    privacy under the California constitution “extends to one’s confidential financial affairs.” *Valley*  
16    *Bank of Nev. v. Super. Ct.*, 15 Cal. 3d 652, 656 (1975). This right embraces confidential financial  
17    information in “*whatever form it takes*, whether that form be tax returns, checks, statements, or  
18    other account information.” *Fortunato v. Super. Ct.*, 114 Cal. App. 4th 475, 481 (2003)  
19    (emphasis added). Thus, Dr. Benzeevi’s bank statements, transaction history, and related analysis  
20    of his personal financial history—much of which have nothing to do with the allegations before  
21    this Court—fall squarely within this constitutionally protected right. *See id.* (recognizing the  
22    “constitutional right of privacy in financial documents in a bank’s possession”).

23            The State makes no specific argument about why the public interest supposedly outweighs  
24    Dr. Benzeevi’s rights in his private financial information.<sup>1</sup> *See* Cal. R. Ct. 2.550(d)(1). Nor does  
25    the State present any case law in support of its radical position that it may invade and publicly

26  
27            <sup>1</sup> Although this investigation may have generated significant public interest, “it does not  
28    necessarily follow that the public has a legally cognizable interest” in accessing Dr. Benzeevi’s  
  confidential financial information. *See Apple Inc. v. Samsung Elecs. Co., Ltd.*, 727 F.3d 1214,  
  1226 (Fed. Cir. 2013).

1 disclose the constitutionally protected private financial information of an individual who has not  
2 been charged with any crime. That the State would pursue such a tactic to tarnish Dr. Benzeevi's  
3 reputation is highly problematic.

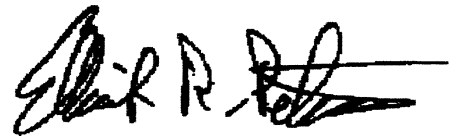
4 Moreover, Dr. Benzeevi's proposed redactions are narrowly tailored and seek to protect  
5 only Dr. Benzeevi's private financial information related to account balances, withdrawals and  
6 deposits, and other spending history. *See Overstock.com v. Goldman Sachs Grp., Inc.*, 231 Cal.  
7 App. 4th 471, 506 (2014) (noting with approval a willingness to redact and criticizing "an-all-or-  
8 nothing approach" to sealing entire documents (internal quotation marks and citation omitted)).

9 For the reasons outlined above and in its opening Motion, this Court should grant in its  
10 entirety the motion to seal Dr. Benzeevi and HCCA's financial information.

11  
12 Dated: October 3, 2018

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14  
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